

ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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OFFICE OF WATER

Extension Petitions for Class  
I Wells With Submitted No  
Program Guidance #69

*Letter for*  
(WH-550)

ance for action on case-by-  
1) (3) of the Resource  
the effective date of land  
injection of hazardous wastes  
1 268.5.

the Administrator to grant a  
five date of applicable  
waste established under 40 CFR  
standards for granting a case-by-  
268.5. The case-by-case  
one year, and is renewable  
year.

have submitted timely no  
from the land ban, may not have  
avoid an applicable effective  
regulative procedures required to  
activities will have to either  
operations. The Agency has  
requirements necessary for  
the preamble to the Third  
8, 1990 (55 FR 22520), as  
migration petitions. In  
and a no migration petition  
pose) a no migration  
not be in a position to  
the prohibition date, such  
a case-by-case extension.

### Commitment to Provide Prot

In order to be granted requires that the applicant contractual commitment has provide alternative treatment that protects human health interpreted "disposal capability environment" to mean a no-

The Agency believes that a "binding contractual commitment provide" ... "disposal capability constructed and permitted the facility has in a time variance and the Agency has adequate to propose a no m

EPA's proposing to apply sufficient demonstration to objective commitment to prevent subsequent finding of no major action.

### Eligibility

Case-by-case extension for timely and appropriate clear indication is that if denied, the Agency will not the petitioner should be notified of the status of the no major

### Information to be Submitted

An administrative record application for a case-by-case made available for public review documentation and correspondence extension application should

The Agency must first operator for a case-by-case

Additionally, applicant information requirements for the necessary documentation

#1. That he has made contract with treatment nationwide to manage health effective date of the

This demonstration should include contacts made with reasonably available, commercial treatment, recovery, or no migration facilities. Good faith efforts can be evaluated in light of the relatively short period of time expected between the August 8, 1990 prohibition date and the date EPA expects to make final decisions on the no migration variances. Good faith efforts can also be evaluated in light of potential logistic problems as described under number (3) below.

#2. He has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery, or disposal capacity that meets the treatment standards or, where treatment standards have not been specified, such treatment, recovery, or disposal capacity is protective of human health and the environment.

As discussed above, where an operator has timely filed a petition sufficient to warrant a proposed no migration finding, he can qualify as "committed...to otherwise provide...disposal capacity".

#3. Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date.

To satisfy (3), information should be provided by the applicant detailing for his injection facility, the technical and practical difficulties associated with providing the alternative capacity resulting in the capacity not being available by the applicable effective date. This documentation should include the dates that a no migration petition was submitted, revision dates, and pertinent scheduling considerations that were involved in the Agency's processing of the petition. The applicant may also cite retooling, repiping, construction, equipment modification, and transportation logistics that would need to be considered, and should provide a schedule which outlines the time period needed in order to develop alternative capacity or obtain treatment necessary for the wastes.

#4. The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application.

#5. He provides a detailed schedule for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available.

The applicant should provide appropriate statements in his case-by-case extension petition to satisfy (4) and (5). The petitioner may include appropriate schedules, correspondence, and other documentation developed during the course of his no migration petition review by the Agency. An estimation of when his petition should receive preliminary and final approval should suffice.

#6. He has arranged for adequate capacity to manage his waste during an extension and provides documentation in the application of the location of all sites at which the waste will be managed.

This information should be included in the case-by-case extension application by the operator.

#7. Any waste managed in a surface impoundment or landfill during the extension period will meet the requirements of §268.5(h)(2).

The wastes are managed by Class I hazardous waste injection wells, therefore the demonstration under (7) does not apply.

#### Additional Considerations

Appropriate certification must be provided by the applicant as under §268.5(b). As outlined in §268.5(c), the Administrator may request any additional information he deems necessary to evaluate the application. Any extension will apply only to waste generated at the individual facility. See §268.5(d). This precludes the granting of a case-by-case extension to commercial injectors.

Consultation with the appropriate State agencies in all affected States is required under §268.5(e), and such consultation should be initiated as early as possible during the review process.

#### Procedures

##### A. Delegation of Authority

The Office of Drinking Water initiated the delegation of authority to act on case-by-case extension applications (for underground injection wells) to the Regional Administrator with provision to redelegate authority to the Division Director level. This redelegation was signed by the Administrator on June 15, 1990.

B. Federal Register Notices

Case-by-case extension proposals and final approvals may be published in the Federal Register for an individual facility or for groups of facilities on a Regional basis in one notice. Appropriate Federal Register language will be provided to each Region requiring it by Headquarters.

Adequate public comment opportunity is required for case-by-case extensions. A 30-day public comment period is appropriate for §268.5 extensions. The administrative record for the case-by-case extension application, as well as the no migration petition's administrative record, should be made available by the Agency to the public for review.

C. Effective Date of Case-by-Case Extension

A final case-by-case extension approval is effective upon signature. The approval must subsequently be published in the Federal Register.

